



# City of Winooski

Vermont's Opportunity City

27 West Allen Street  
Winooski Vermont 05404  
802 655 6410  
[winooski.vt.gov](http://winooski.vt.gov)

## Conflict of Interest Policy

Adopted March 13, 2023

**Article 1. Authority.** Under the authority granted in 24 V.S.A. § 2291(20), and in accordance the Winooski City Charter, 24A V.S.A. § 19-305, the Winooski City Council hereby adopts the following policy concerning conflicts of interest.

**Article 2. Purpose.** The purpose of this policy is to ensure that the business of this municipality will be conducted in such a way that no public officer of the municipality will gain a personal or financial advantage from the public officer's work for the municipality and so that the public trust in municipal officials will be preserved. It is also the intent of this policy to ensure that all decisions made by municipal officers are based on the best interest of the community at large.

**Article 3. Application.** This policy applies to all public officers as that term is defined below.

**Article 4. Definitions.** For the purposes of this policy, the following definitions shall apply:

A. **Conflict of interest** means any of the following:

- I. A direct or indirect personal or financial interest of a public officer, the public officer's spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother-or sister-in-law, business associate, or employer or employee in the outcome of a cause, proceeding, application, or any other matter pending before the officer or before the public body in which they hold office or are employed.
- II. A situation where a public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding. This shall not apply to a member's particular political views or general opinion on a given issue.
- III. A situation where a public officer has not disclosed ex parte communications with a party in a quasi-judicial proceeding.

B. "conflict of interest" does not arise in the case of votes or decisions on matters in which the public official has a personal or financial interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other persons generally affected by the decision.



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- C. **Emergency** means an imminent threat or peril to public health, safety, or welfare.
- D. **Ex Parte Communication** means direct or indirect communication between a member of a public body and any party, party's representative, party's counsel, or any person interested in the outcome of a quasi-judicial proceeding, that occurs outside the proceeding and concerns the substance or merits of the proceeding.
- E. **Official act or action** means any legislative, administrative, or quasi-judicial act performed by any public officer while acting on behalf of the municipality.
- F. **Public body** means any board, council, commission, or committee of the municipality.
- G. **Public interest** means an interest of the community as a whole, conferred generally upon all residents of the municipality.
- H. **Public officer** means a person elected or statutorily appointed to perform executive, administrative, legislative, or quasi-judicial functions for the municipality. This includes appointees by the Council to Boards, Committees, or Commissions. This term does not include any municipal employee.
- I. **Quasi-judicial proceeding** means a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunities to present evidence and to cross-examine witnesses presented by other parties, and which results in a written decision that is appealable by a party to a higher authority.

## **Article 5. Prohibited Conduct.**

- A. A public officer shall not participate in any official action if that public officer has a conflict of interest in the matter under consideration.
- B. A public officer shall not personally – or through any member of that public officer's household, business associate, employer, or employee – represent, appear for, or negotiate in a private capacity on behalf of any person or organization in a cause, proceeding, application, or other matter pending before the public body in which the public officer holds office.
- C. A public officer shall not accept gifts or other offerings for personal gain by virtue of that public officer's public office that are not available to the public in general.



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- D. A public officer shall not use resources unavailable to the general public – including but not limited to municipal staff time, equipment, supplies, or facilities – for private gain or personal purposes.

**Article 6. Disclosure.** A public officer who has reason to believe that they personally have or may have an actual or perceived conflict of interest in a particular matter shall, prior to participating in any official action on the matter, publicly disclose at a public meeting or public hearing that the public officer has an actual or perceived conflict of interest in the matter under consideration and disclose the nature of the actual or perceived conflict of interest. Alternatively, a public officer may request that another public officer recuse themselves from a matter due to an actual or perceived conflict of interest.

**Article 7. Consideration of Recusal.** Once there has been a disclosure of an actual or perceived conflict of interest, other public officers may be afforded an opportunity to ask questions or make comments about the situation. If a previously unknown conflict is disclosed or discovered during a meeting or hearing conducted by a public body of the municipality, the public body may take evidence pertaining to the conflict and, may in accordance with 1 V.S.A. §§ 313, adjourn to an executive session to address the conflict.

## **Article 8. Recusal.**

- A. **Recusal of Elected Officers.** After taking the actions listed in Articles 6 and 7, an elected public officer should declare whether the public officer will recuse themselves and explain the basis for that decision. If the public officer has an actual or perceived conflict of interest but believes that the public officer is able to act fairly, objectively, and in the public interest, in spite of the conflict, the public officer shall state why the public officer believes that the public officer is able to act in the matter fairly, objectively, and in the public interest. As each member of the public body is independently elected and answers only to the voters, the remaining members of the body may not force recusal. They may only express the public officer's opinion about the subject and/or privately or publicly admonish a fellow member who fails to handle conflicts appropriately.
- B. **Recusal of Appointed Officers.** The failure of an appointed public officer to recuse themselves in spite of an actual or perceived conflict of interest may be grounds for discipline or removal from office. Certain appointed officials may only be removed for cause and after being afforded with procedural due process protections including notice and a reasonable opportunity to be heard as outlined in the municipal charter if such provisions are applicable.



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## Article 9. Post-Recusal Procedure.

- A. A public officer who has recused themselves from serving on a public body in a particular proceeding shall not sit with the public body, deliberate with the public body, or participate in that proceeding as a member of the public body in any capacity, though such member may still participate as a member of the public.
- B. The public body may adjourn the proceedings to a time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the total membership of the public body. The public body may then resume the proceeding with sufficient members present.

## Article 10. Enforcement.

- A. **Enforcement Against Elected Officers; Progressive Consequences for Failure to Follow the Conflict of Interest Procedures.** In cases where an elected public officer has engaged in any of the prohibited conduct listed in Article 5 or has not followed the conflict of interest procedures in Articles 6 through 9, the Winooski City Council may take progressive action to discipline such elected officer as follows:
  - I. The Mayor may meet informally with the public officer to discuss the possible conflict of interest violation.
  - II. The Winooski City Council may meet to discuss the conduct of the public officer. An executive session may be used for such discussion in accordance with 1 V.S.A. § 313(a)(4). The public officer may request that this meeting occurs in public. The Winooski City Council may admonish the offending public officer in private.
  - III. If the Winooski City Council decides that further action is warranted, the Winooski City Council may admonish the offending public officer at an open meeting and reflect this action in the minutes of the meeting. The public officer shall be given the opportunity to respond to the admonishment.
  - IV. Upon a majority vote in an open meeting, the Winooski City Council may request (but not order) that the offending public officer resigns from the public officer's office.



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**B. Enforcement Against Appointed Officers.** The Winooski City Council may choose to follow any of the steps articulated in Article 10A. In addition to or in lieu of any of those steps, the Winooski City Council may choose to remove an appointed officer from office, subject to state law, the Winooski City Charter, and any applicable policies.

**Article 11. Exception.** The recusal provisions of Article 8 shall not apply if the Winooski City Council determines that an emergency exists and that actions of the public body otherwise could not take place. In such a case, a public officer who has reason to believe the public officer has a conflict of interest shall disclose such conflict as provided in Article 6.

**Article 12. Effective Date.** This policy shall become effective immediately upon its adoption by the Winooski City Council.

**Submitted by:** Elaine Wang, City Manager

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Signature

Date



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**Approved by:** Winooski City Council

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Mayor Kristine Lott

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Councilor

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Councilor Aurora Hurd

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Councilor Bryn Oakleaf

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Councilor Thomas Renner

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Attest: Jenny Willingham, City Clerk